

REMARKS

Applicants have cancelled claims 4 through 6 without prejudice expressly reserving the right to pursue the subject matter of the cancelled claims in one or more subsequent applications.

Claims 1-12 and 17-18 stand rejected under 35 U.S.C. §102(b) for purportedly being anticipated by Johansen et al. (U.S. Patent No. 5,400,175). Claims 13-14 stand rejected under 35 U.S.C. §102(e) for purportedly being anticipated by Searfoss III (U.S. Patent No. 6,902,296). Claim 16 stands rejected under 35 U.S.C. §102(b) for purportedly being anticipated by Kirschner (U.S. Patent No. 6,019,476). In view of the following remarks, Applicants request that the Examiner reconsider and withdraw the rejection of the claims.

Anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention.

Electro Med. Sys. S.A. v. Cooper Life Sciences, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994).

Applicants have amended claim 1 to recite that the device selectively blocks light having a wavelength less than at or about 530 nm. Claims 10, 13 and 16 through 18 have been similarly amended. Johansen et al. fails to teach a means for selectively blocking light having a wavelength less than at or about 530 nm. As is clearly apparent in Figure 1 of Johansen et al., Johansen et al. does not selectively block certain wavelengths of light, rather, Johansen et al. blocks all wavelengths of light, as "blocking" is defined within the context of the present application, see paragraph [0029] which states "substantially blocking, when used in terms of wavelength of light, is defined as blocking over 50 percent of the incident wavelength at each and every wavelength." As shown in Figure 1, Johansen et al. does not surpass 40% transmission for any wavelength. This transmission spectrum reflects the fact that Johansen et al. is directed to a

different art field, specifically, the field of sunglasses.

The Examiner cites Johansen et al. column 6, lines 44-51 for purportedly teaching selectively blocking light having a wavelength capable of suppressing melatonin production in humans. But, this portion of the description is misleading and demonstrates that the authors misunderstood the nature of melatonin production. As explained in the present application at paragraph [0004], the secretion of melatonin in the human is circadian, with high levels at night and low levels in the morning. Accordingly, sunglasses (i.e. glasses worn during the day to limit transmission of natural sunlight) are clearly not useful for raising melatonin levels in a human.

Accordingly, Johansen et al. neither teaches nor suggests the invention of claims 1-12 and 17-18, as such, are not anticipated by Johansen et al..

Likewise, Searfoss III also fails to teach or suggest the invention as claimed. Searfoss III teaches a nightlight for providing therapeutic effects. It teaches a light having a sleep mode of substantially monochromatic light in the blue to green light range i.e. a light substantially from the blue (approximately 475 nm) and yellow (approximately 570 nm) portions of the light spectrum during peak melatonin production times (see column 5, lines 16 to 20). Clearly, Searfoss III fails to teach a device that selectively blocks light having a wavelength less than at or about 530 nm and actually teaches away from the subject matter of the present invention. As such, Searfoss III fails to anticipate the current claims.

Kirschner also fails to teach the invention of the current claims. Kirschner teaches the use of a pigment balance to get a full spectral effect of natural light for a fluorescent lighting system. Kirschner has no teachings related to blocking certain wavelengths of light in order to inhibit the suppression of melatonin production caused by exposure to light at night. Accordingly, Kirschner clearly does not teach or suggest the subject matter of the

present invention.

In view of the foregoing remarks and amendments to the claims, Applicants request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. §102 in view of Johanson et al., Searfoss III and Kirshner.

Claim 15 stands rejected under 35 U.S.C. §103(a) for purportedly being unpatentable over Searfoss III. Applicants respectfully disagree.

As discussed above, Searfoss III fails to teach or suggest the invention as claimed. Applicants' claimed device selectively blocks light having a wavelength less than at or about 530 nm. Searfoss III teaches a nightlight having a sleep mode for selectively producing substantially monochromatic light in the blue to green light range i.e. light substantially from the blue (approximately 475 nm) and yellow (approximately 570 nm) portions of the light spectrum during peak melatonin production times (see column 5, lines 16 to 20). Clearly, Searfoss, III fails to suggest the current claims and actually teaches away from the subject matter of the present invention.

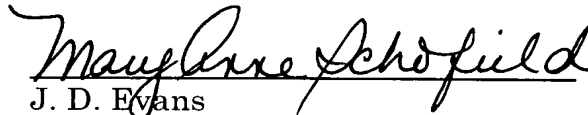
In view of the foregoing remarks and amendments to the claims, Applicants request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. §103 over Searfoss III.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #101648.55966US).

Respectfully submitted,

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